

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 4371

By: Ford

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5
6 AS INTRODUCED

7 An Act relating to workers' compensation; amending
8 85A O.S. 2021, Section 47, which relates to
9 beneficiaries in case of death; providing for
10 continuation of payments to certain surviving spouses
11 of public safety officers; and providing an effective
12 date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 85A O.S. 2021, Section 47, is
15 amended to read as follows:

16 Section 47. A. Time of death. If death does not result within
17 one (1) year from the date of the accident or within the first three
18 (3) years of the period for compensation payments fixed by the
19 compensation judgment, a rebuttable presumption shall arise that the
20 death did not result from the injury.

21 B. Common law spouse. A common law spouse shall not be
22 entitled to benefits under this section unless he or she obtains an
23 order from the Workers' Compensation Commission ruling that a common
24 law marriage existed between the decedent and the surviving spouse.

1 The ruling by the Commission shall be exclusive in regard to
2 benefits under this section regardless of any district court
3 decision regarding the probate of the decedent's estate.

4 C. Beneficiaries - Amounts. If an injury or occupational
5 illness causes death, weekly income benefits shall be payable as
6 follows:

7 1. If there is a surviving spouse, a lump-sum payment of One
8 Hundred Thousand Dollars (\$100,000.00) and seventy percent (70%) of
9 the lesser of the deceased employee's average weekly wage and the
10 state average weekly wage. In addition to the benefits theretofore
11 paid or due, two (2) years' indemnity benefit in one lump sum shall
12 be payable to a surviving spouse upon remarriage;

13 2. If there is a surviving spouse and a child or children, a
14 lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and
15 fifteen percent (15%) of the lesser of the deceased employee's
16 average weekly wage and the state average weekly wage to each child.
17 If there are more than two children, each child shall receive a pro
18 rata share of Fifty Thousand Dollars (\$50,000.00) and thirty percent
19 (30%) of the deceased employee's average weekly wage;

20 3. If there is a child or children and no surviving spouse, a
21 lump-sum payment of Twenty-five Thousand Dollars (\$25,000.00) and
22 fifty percent (50%) of the lesser of the deceased employee's average
23 weekly wage and the state average weekly wage to each child. If
24 there are more than two children, each child shall receive a pro

1 rata share of one hundred percent (100%) of the lesser of the
2 deceased employee's average weekly wage and the state average weekly
3 wage. With respect to the lump-sum payment, if there are more than
4 six children, each child shall receive a pro rata share of One
5 Hundred Fifty Thousand Dollars (\$150,000.00);

6 4. If there is no surviving spouse or children, each legal
7 guardian, if financially dependent on the employee at the time of
8 death, shall receive twenty-five percent (25%) of the lesser of the
9 deceased employee's average weekly wage and the state average weekly
10 wage until the earlier of death, becoming eligible for Social
11 Security, obtaining full-time employment, or five (5) years from the
12 date benefits under this section begin; and

13 5. The employer shall pay the actual funeral expenses, not
14 exceeding the sum of Ten Thousand Dollars (\$10,000.00).

15 D. The weekly income benefits payable to the surviving spouse
16 under this section shall continue while the surviving spouse remains
17 unmarried. The weekly income benefits payable to the surviving
18 spouse of a municipal police officer, a municipal firefighter, a
19 county sheriff or deputy sheriff, a state trooper, or an emergency
20 medical technician shall continue whether or not the surviving
21 spouse remarries. In no event shall this spousal weekly income
22 benefit be diminished by the award to other beneficiaries. The
23 weekly income benefits payable to any child under this section shall

1 terminate on the earlier of death, marriage, or reaching the age of
2 eighteen (18). However, if the child turns eighteen (18) and is:

3 1. Enrolled as a full-time student in high school or is being
4 schooled by other means pursuant to the Oklahoma Constitution;

5 2. Enrolled as a full-time student in any accredited
6 institution of higher education or vocational or technology
7 education; or

8 3. Physically or mentally incapable of self-support,
9 then he or she may continue to receive weekly income benefits under
10 this section until the earlier of reaching the age of twenty-three
11 (23) or, with respect to paragraphs 1 and 2 of this subsection, no
12 longer being enrolled as a student, and with respect to paragraph 3
13 of this subsection, becoming capable of self-support.

14 E. If any member of the class of beneficiaries who receive a
15 pro rata share of weekly income benefits becomes ineligible to
16 continue to receive benefits, the remaining members of the class
17 shall receive adjusted weekly income benefits equal to the new class
18 size.

19 F. To receive benefits under this section, a beneficiary or his
20 or her guardian, if applicable, shall file a proof of loss form with
21 the Commission. All questions of dependency shall be determined as
22 of the time of the injury. The employer shall initiate payment of
23 benefits within fifteen (15) days of the Commission's determination
24 of the proper beneficiaries. The Commission shall appoint a

guardian ad litem to represent known and unknown minor children and
the guardian ad litem shall be paid a reasonable fee for his or her
services.

SECTION 2. This act shall become effective November 1, 2022.

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